IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11106 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE JAYANT PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

KALOL TALUKA CO-OPERATIVE PURCHASE & SALE UNION LTD.
Versus
DISTRICT COLLECTOR GANDHINAGAR

Appearance:
1. Special Civil Application No. 11106 of 2001
MR KS JHAVERI for Petitioner
MR AMIT KOTAK A.G.P. for Respondent

CORAM : MR.JUSTICE JAYANT PATEL

Date of decision: 30/04/2002

ORAL JUDGEMENT

Rule. Mr.Kotak learned A.G.P. waives service of rule on behalf of the respondents. With the consent of

the parties, the matter is taken up for final hearing.

2. Mr.Jhaveri, learned counsel for the petitioner submitted that the voters list is already finalized for the purpose of holding the election. He submitted that the statutory term of members of the managing committee was to expire in December, 2001 and therefore, the process for holding the election was already initiated in time. Mr.Jhaveri submitted that after the finalization of the voters list, no further steps are taken for the purpose of publishing the election program as required under Rule 16. Mr.Jhaveri submitted that therefore as a matter of fact as per the provisions of Section 145 [c], the election must be held and completed at least one month prior to the expiry of the term but no steps are taken and therefore, the appropriate directions may be given to the authority to publish the election program and to complete the same within a stipulated period. Mr.Jhaveri also submitted that the intention of the respondents is not to hold election and to appoint custodian and therefore he also submitted that appropriate direction may also be given so that the government may not get any right to appoint custodian until the election is over and until newly elected body assumes charge.

On behalf of the election authority, Mr.Amit Kotak submitted that there is no objection in holding the election within a stipulated time limit.

In view of the above and in the facts and circumstances of the case, and more particularly in view of the provisions of Section 145 [c] of the Act, I am of the view that it is obligatory on the part of the authority to initiate the process for holding the election of the members of the managing committee of a specified cooperative society and to complete the same one month prior to the expiry of the statutory term. In the present case, there is no dispute on the point that the statutory term of the members of the managing committee was to expire in December 2001. However, society is concerned, had initiated the process for holding the election but on account of inaction on the part of the election authority, no further action for holding the election has been taken. Therefore, I am of the view that when the voters list is also finalized, there is no reason for election authority not to hold election as per the requirement of statute. Since the same has been not done, I am of the view that the ends of justice would be met by giving direction to the election authority to hold election of the members of the managing

committee of the Kalol Taluka Cooperative Purchase and Sale Union Limited on or before 30.5.2002. The first meeting for enabling the newly elected body to assume charge may be held on or before 15.6.2002. Since the election is ordered as indicated above and since the appointment of custodian cannot be made until expiry of the period of six months from the date of the expiry of the term, the apprehension of Mr.Jhaveri that the appointment of custodian shall be made, is ill founded.

The petition is allowed accordingly and the rule is made absolute to the aforesaid extent.

Direct service is permitted.

30.4.2002 [JAYANT PATEL, J]
S.SHAKUNTALA